



The request for an extension is granted.

SO ORDERED.

/s/ Alvin K. Hellerstein

April 18, 2023

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

NICOLETTE PELLEGRINO
Assistant Corporation Counsel
Phone: (212) 356-2338
Fax: (212) 356-3509
Email: npellegr@law.nyc.gov

April 17, 2023

VIA E.C.F.

Honorable Alvin K. Hellerstein
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

RE: Andrew Gilbert v. the City of New York, et al.,
23 Civ. 00421

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney representing defendant the City of New York ("City") in the above referenced matter. The City writes to respectfully request: (a) a thirty day extension of time to respond to the Complaint from April 24, 2023, to May 24, 2023; and (b) that the Court *sua sponte* afford the individual defendants a corresponding extension of time to respond to the Complaint. This is the City's first request for this relief. Plaintiff consents to this request.

By way of background, Plaintiff initiated this action on January 17, 2023, by filing the Complaint against defendants City, Officer Joseph R. Vincent, and Officer Grace Rosero-Tapia. (See Dkt. No. 1.)

On January 18, 2023, this case was designated to participate in the Section 1983 Plan. (See Dkt. No. 3.)

Since that date, all defendants have been served and, pursuant to the Section 1983 Plan, their response to the Complaint is due by April 24, 2023. However, the City requires additional time to respond.

There are several reasons for seeking an extension of time in this matter. First, in accordance with the Office of the Corporation Counsel's ("the Office") obligations under Rule 11 of the Federal Rules of Civil Procedure, the Office requires additional time to investigate the allegations set forth in the Complaint. This Office is still waiting receipt of certain relevant

documents concerning Plaintiff's allegations. The requested enlargement of time will afford this Office an opportunity to gather the relevant documents and appropriately investigate this matter.

Furthermore, an extension of time is also required because, as noted above, this Office is still waiting receipt of certain relevant documents concerning Plaintiff's allegations, which directly impacts the Office's ability to make representation decisions concerning the individually named officers. This Office must determine, pursuant to Section 50-k of the New York General Municipal Law and based on a review of the case and relevant materials, whether it will represent the individually named defendants in this action. The officers must then decide whether they wish to be represented by this Office. If so, this Office must obtain their written authorization. Only after this process has been followed can this Office determine how to proceed in this case. (See General Municipal Law § 50(k); see also Mercurio v. City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985); see also Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (noting that the decision to bestow legal representation upon individual defendants is made by the Corporation Counsel as set forth in state law)). Thus, the extension of time is also needed to afford the Office an opportunity to determine representation concerning the officers. Thus, the City respectfully requests a thirty day extension of time to respond to the Complaint from April 24, 2023, to May 24, 2023.

Finally, as this Office has not yet made representation decisions concerning the individually named defendants, the instant request is not being made on their behalf. Nevertheless, for the reasons detailed above, and in the interest of judicial economy, the City respectfully requests that the Court *sua sponte* afford the individual defendants a corresponding extension of time to respond to the Complaint to May 24, 2023.

Accordingly, the City respectfully requests, with Plaintiff's consent: (a) a thirty day extension of time to respond to the Complaint from April 24, 2023, to May 24, 2023; and (b) that the Court *sua sponte* afford the individual defendants a corresponding extension of time to respond to the Complaint.

The City thanks the Court for its consideration.

Respectfully submitted,

/s/ Nicolette Pellegrino
Nicolette Pellegrino
Assistant Corporation Counsel
Special Federal Litigation Division

CC: VIA E.C.F.
Counsel of Record